

Amendments to Senate Bill No. 382
1st Reading Copy

Requested by Senator Jesse Laslovich

For the Senate Judiciary Committee

Prepared by Valencia Lane
February 15, 2007 (1:42pm)

- worked with Anita Roessman + Brenda Desmond
- change "mentally ill" to "mental disorders" or "participant"
- MAP's suggestions (noted)
- Sup. Ct. administrators # 48

1. Title, line 5.

Following: "FOR"

Strike: "MENTALLY ILL"

Following: "OFFENDERS"

Insert: "WITH A MENTAL DISORDER"

2. Title, line 7.

Following: "AMENDING"

Strike: "SECTIONS"

Insert: "SECTION"

Following: "3-10-303"

Strike: "AND 46-13-130"

3. Page 1, line 12 through line 13.

Following: "the" on line 12

Strike: remainder of line 12 through "Treatment" on line 13

Insert: "\"Mental Health Treatment Court"

4. Page 1, line 17.

Following: line 16

Strike: "mentally ill offenders"

Insert: "persons with a mental disorder who are charged with a criminal offense"

5. Page 1, line 22.

Following: line 21

Strike: "a mentally ill"

Insert: "an"

Following: "offender"

Insert: "with a mental disorder"

6. Page 1, line 24.

Following: "mental"

Strike: "illness"

Insert: "health"

7. Page 1, line 25.

Following: "of"

Strike: "mentally ill offenders"

Insert: "participants"

8. Page 2, line 2.

Following: "with"

Insert: "a"

Following: "mental"

Strike: "illness"

Insert: "disorder"

MAP #1
9. Page 2, line 7.

Following: "that"

Strike: "may consist of"

Insert: ":

(a) must include"

10. Page 2, line 8.

Strike: "(a)"

Insert: "(i)"

11. Page 2, line 9.

Strike: "(b)"

Insert: "(ii)"

12. Page 2, line 10.

Strike: "(c)"

Insert: "(iii)"

Following: "attorney;"

Insert: "(iv) the participant; and

(v) the mental health treatment court coordinator; and

(b) may include the following additional members:"

13. Page 2, line 11.

Strike: "(d)"

Insert: "(i)"

14. Page 2, line 12.

Strike: subsection (e) in its entirety

15. Page 2, line 13.

Strike: "(f)"

Insert: "(ii)"

16. Page 2, line 14.

Strike: "(g)"

Insert: "(iii)"

17. Page 2, line 15.

Strike: "(h)"

Insert: "(iv)"

18. Page 2, line 16.

Strike: "(i)"

Insert: "(v)"

19. Page 2, line 17.

Strike: "(j)"

Insert: "(vi)"

20. Page 2, line 22.

Strike: subsection (9) in its entirety

Renumber: subsequent subsections

21. Page 2, line 23.

Following: "(10)"

Strike: "Mentally ill offender"

Insert: "Participant"

22. Page 2, line 23 through line 24.

Following: "which" on line 23

Strike: remainder of line 23 through "illness" on line 24

Insert: "a mental disorder, as defined in 53-21-102,"

23. Page 2, line 24.

Following: "of"

Strike: "an"

Insert: "the"

24. Page 2, line 25.

Following: "before a"

Strike: "mentally ill offender's"

Insert: "participant's"

25. Page 2, line 27.

Strike: "offender's"

Insert: "participant's"

26. Page 2, line 28.

Following: "drug"

Insert: ", but does not include inadvertent error in the use of medication"

27. Page 3, line 3.

Following: "which"

Strike: "mentally ill offenders"

Insert: "persons with a mental disorder who are charged with a criminal offense"

28. Page 3, line 8 through line 11.

Following: "agreement" on line 8

Strike: remainder of line 8 through "agreement" on line 11

MAP #2
consumption

MAP
#3

MAP #4
29. Page 3, line 17 through line 28.

Following: "agreement" on line 17

Strike: remainder of line 17 through "court." on line 28

Insert: "for failure to comply with the agreement. Prior to imposition of a sanction, the mental health treatment court team shall review the participant's individual treatment program and the participant's conduct. If the mental health treatment court team determines that the participant's failure to comply:

(a) was not willful, was a symptom of a mental disorder, or was a result of an inappropriate treatment plan, the court may impose sanctions, including:

- (i) fines;
- (ii) extension of time in the program;
- (iii) peer review; or
- (iv) geographical restrictions; or

(b) was willful, not a symptom of a mental disorder, and not the result of an inappropriate treatment plan, the court may impose sanctions, including:

- (i) a short-term jail sentence;
- (ii) termination of participation in the program; or
- (iii) contempt of court."

30. Page 3, line 29.

Following: "court, a"

Strike: "mentally ill offender's"

Insert: "participant's"

31. Page 4, line 3.

Following: "A"

Strike: "mentally ill offender"

Insert: "participant"

Following: "program"

Strike: "may"

Insert: "must"

32. Page 4, line 4.

Following: "the time the"

Strike: "offender"

Insert: "participant"

33. Page 4, line 8.

Following: "regarding"

Strike: "mentally ill offenders"

Insert: "participants"

34. Page 4, line 9.

Following: "determining the"

Strike: "offender's"

Insert: "participant's"

35. Page 4, line 12.

Following: "only to"

Strike: "offenders"

Insert: "persons with a mental disorder who are charged with a criminal offense"

36. Page 4, line 14.

Following: "to"

Strike: "mentally ill offenders"

Insert: "participants"

37. Page 4, line 21.

Following: "Each"

Strike: "mentally ill offender"

Insert: "participant"

38. Page 4, line 24.

Following: "concerning the"

Strike: "mentally ill offender's"

Insert: "participant's"

39. Page 5, line 5.

Following: "that"

Strike: "mentally ill offenders"

Insert: "participants"

40. Page 5, line 8.

Following: "a"

Strike: "mentally ill offender's"

Insert: "participant's"

MAP #6
41. Page 5, line 9.

Following: "upon"

Strike: "objective medical diagnostic criteria"

Insert: "evidence-based treatment principles"

42. Page 5, line 12.

Following: "for"

Strike: "mentally ill offenders"

Insert: "participants"

43. Page 5, line 16.

Following: the second "that"

Strike: "an offender"

Insert: "a participant"

44. Page 5, line 19.

Following: "refer the"

Strike: "mentally ill offender"

Insert: "participant"

45. Page 5, line 21.

Following: "to"

Strike: "mentally ill offenders"

Insert: "participants"

46. Page 5, line 22 through line 23.

Following: "of the" on line 22

Strike: remainder of line 22 through "offender's" on line 23

Insert: "participant's"

MAP #7 | 47. Page 5, line 24 through line 25.

Strike: subsection (6) in its entirety

Court Administrator 48. Page 5, line 27 through line 28.

Following: "(1)" on line 27

Strike: remainder of line 27 through "court." on line 28

Insert: "There is a mental health treatment court federal resources account in the federal special revenue fund that is administered by the office of court administrator."

49. Page 6, line 2.

Following: "A"

Strike: "mentally ill offender"

Insert: "participant"

50. Page 6, line 3.

Following: "by a"

Strike: "mentally ill offender"

Insert: "participant"

51. Page 6, line 4.

Following: "the"

Strike: "mentally ill offender's"

Insert: "participant's"

52. Page 6, line 6.

Following: "from"

Strike: "an offender"

Insert: "a participant"

53. Page 6, line 17 through line 18.

Following: "the" on line 17

Strike: remainder of line 17 through "offender" on line 18

Insert: "participant"

54. Page 7, line 11 through page 8, line 8.

Strike: section 10 in its entirety

Renumber: subsequent sections

- END -

amended
3-6-10

S BILL NO. 382

INTRODUCED BY

(Primary Sponsor)

Laslovich (Petesch)

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE CREATION OF MENTAL HEALTH
TREATMENT COURTS FOR ~~MENTALLY ILL~~ ^{with a mental disorder} OFFENDERS; PROVIDING FOR IMPLEMENTATION OF
ACCOUNTABILITY AND TREATMENT PROGRAMS; CREATING PROCEDURAL GUIDELINES FOR DISTRICT
COURT JUDGES; AMENDING SECTIONS ~~3-10-303 AND 46-16-130~~, MCA; AND PROVIDING AN EFFECTIVE
DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 8] may be cited as the "~~Mentally Ill~~ ^{Mental Health}
~~Treatment Court~~ ^{Treatment Court} Offender Accountability and Treatment Act".

NEW SECTION. Section 2. Purpose. The purpose of [sections 1 through 8] is to recognize that state
courts have a jurisdictional basis to implement mental health treatment courts to reduce recidivism and restore
~~persons with a mental disorder who are charged with a criminal offense~~
~~mentally ill offenders~~ to being productive, law-abiding, and taxpaying citizens.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 8], the following definitions
apply:

(1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person is
~~a mentally ill offender~~ ^{an} ~~offender~~ ^{with a mental disorder} under [sections 1 through 8] and would benefit from the provisions of [sections 1 through
8].

(2) "Continuum of care" means a seamless and coordinated course of mental ~~illness~~ ^{health} counseling and
treatment designed to meet the needs of ~~mentally ill offenders~~ ^{participants} as they move through the criminal justice system
and beyond, maximizing self-sufficiency.

(3) "Drug" has the meaning provided in 46-1-1103.

(4) "Memorandum of understanding" means a written document setting forth an agreed-upon procedure.

(5) "Mental health treatment court" means a court established by a court pursuant to [sections 1 through
8] implementing a program of incentives and sanctions intended to assist a participant, whose conduct has

1 resulted in a criminal violation, in receiving the needed treatment and life skills to prevent further criminal behavior
 2 associated with ^{a disorder} mental ~~illness~~.

3 (6) "Mental health treatment court coordinator" means an individual who, under the direction of the mental
 4 health treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation,
 5 and integrity of the mental health treatment court.

6 (7) "Mental health treatment court team" means a group of individuals appointed by the mental health
 7 treatment court that ^{(a) must include} ~~may consist of~~ the following members:

8 (i) ~~the~~ judge, which may include a magistrate or other hearing officer;

9 (ii) ~~the~~ prosecutor;

10 (iii) ~~the~~ public defender or defense attorney;

11 (i) ~~the~~ a law enforcement officer; (iv) the participant; and

12 (v) the mental health treatment court coordinator; and
 13 (b) may include the following additional members:

14 (i) ~~the~~ a probation and parole officer;

15 (ii) ~~the~~ a mental health professional;

16 (iii) ~~the~~ a substance abuse treatment provider;

17 (iv) ~~the~~ a representative from the department of public health and human services; and

18 (v) ~~the~~ any other person selected by the mental health treatment court.

19 (8) "Mental health treatment program" means a program designed by the mental health treatment court
 20 team to provide prevention, education, and therapy directed toward ending criminal behavior and preventing a
 21 return to a condition leading to criminal behavior. Mental health treatment programs may consist of but are not
 22 limited to housing assistance, job training, mental health counseling, and psychiatric treatment.

23 ~~(9) "Mental illness" includes not lacking capacity but diagnosed with a mental illness.~~

24 (9) ^{Participant} ~~(10) "Mentally ill offender"~~ means a person charged with a criminal offense or an offense in which ~~mental~~
 25 a mental disorder, as defined in 53-21-102, ^{the} ~~illness~~ is determined to have been a significant factor in the commission of an offense.

26 (11) "Staff meeting" means the meeting before a ^{Participant's} ~~mentally ill offender's~~ appearance in mental health
 27 treatment court in which the mental health treatment court team discusses a coordinated response to the
 28 ^{Participant's} ~~offender's~~ behavior, but does not include inadvertent error in the use of

29 medication

30 (12) "Substance abuse" means the illegal or improper consumption of a drug.
 (13) "Substance abuse treatment" means a program designed to provide prevention, education, and
 therapy directed toward ending substance abuse and preventing a return to substance use.

persons with a mental disorder who are charged with a criminal offense

NEW SECTION. Section 4. Mental health treatment court structure.

(1) Each judicial district or court of limited jurisdiction may establish a mental health treatment court under which ~~mentally ill offenders~~ may be processed to address an identified mental health problem as a condition of pretrial release, pretrial diversion under 46-16-130, probation, incarceration, parole, or other release from a detention or correctional facility.

(2) Participation in mental health treatment court is voluntary and is subject to the consent of the prosecutor, the defense attorney, and the court pursuant to a written agreement.

(3) A mental health treatment court may grant reasonable incentives under a written agreement ~~if the court finds that a mentally ill offender is performing satisfactorily in mental health treatment court, is benefiting from education, treatment, and rehabilitation, has not engaged in criminal conduct, and has not violated the terms and conditions of the agreement.~~ Reasonable incentives may include but are not limited to:

- (a) graduation certificates;
- (b) early graduation;
- (c) fee reduction or waiver of fees;
- (d) record expungement of the underlying case; or
- (e) reduced contact with a probation officer.

(4) The court may impose reasonable sanctions under the agreement ~~including incarceration or rejection for failure to comply with the agreement.~~ Prior to

imposition of a sanction, the mental health treatment court team shall review the participant's individual treatment program and the participant's conduct. If the mental health treatment court team determines that the participant's failure to comply:

(a) was not willful, was a symptom of a mental disorder, or was a result of an inappropriate treatment plan, the court may impose sanctions, including:

- (i) fines;
- (ii) extension of time in the program;
- (iii) peer review; or
- (iv) geographical restrictions; or

(b) was willful, not a symptom of a mental disorder, and not the result of an inappropriate treatment plan, the court may impose sanctions, including:

- (i) a short-term jail sentence;
- (ii) termination of participation in the program; or
- (iii) contempt of court.

(5) Upon successful completion of mental health treatment court, a ~~mentally ill offender's~~ ^{participant's} case must be disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and

1 procedures adopted by the mental health treatment court. This may include but is not limited to pretrial diversion
 2 under 46-16-130, dismissal of criminal charges, probation, deferred sentencing, suspended sentencing, or a
 3 reduced period of incarceration. A ^{participant} ~~mentally ill offender~~ who successfully completes the program ^{must} ~~may~~ be given
 4 credit for the time the ~~offender~~ ^{participant} served in the mental health treatment program by the judge upon disposition.

5 (6) Each local jurisdiction that intends to establish a mental health treatment court or to continue the
 6 operation of an existing mental health treatment court shall establish a local mental health treatment court team.

7 (7) The mental health treatment court team shall, when practicable, conduct a staff meeting prior to each
 8 mental health treatment court session to discuss and provide updated information regarding ^{participants} ~~mentally ill offenders~~.
 9 After determining the ^{participants} ~~offenders~~ progress or lack of progress, the mental health treatment court team shall agree
 10 on the appropriate incentive or sanction to be applied. If the mental health treatment court team cannot agree on

11 the appropriate action, the court shall make the decision based on information presented in the staff meeting.
 12 The provisions of [sections 1 through 8] apply only to ^{persons w/a mental disorder who are charged w/a criminal offense} ~~offenders~~ who qualify for participation based on
 13 qualifications established by each mental health treatment court. The provisions of [sections 1 through 8] do not
 14 apply to ^{participants} ~~mentally ill offenders~~ who have been convicted of a sexual or violent offense, as defined in 46-23-502.

15 [Sections 1 through 8] do not confer a right or expectation of a right to participate in a mental health treatment
 16 court and does not obligate a mental health treatment court to accept any offender. The establishment of a mental
 17 health treatment court may not be construed as limiting the discretion of a prosecutor to act on any criminal case
 18 that the prosecutor considers advisable to prosecute. Each mental health treatment court judge may establish
 19 rules and may make special orders and necessary rules that do not conflict with rules adopted by the Montana
 20 supreme court.

21 (8) Each ^{participant} ~~mentally ill offender~~ shall contribute to the cost of treatment and the program in accordance with
 22 [section 6(2)]. A mental health treatment court coordinator is responsible for the general administration of a
 23 mental health treatment court under the direction of the mental health treatment court judge. The supervising
 24 agency shall timely forward information to the mental health treatment court concerning the ^{participant's} ~~mentally ill offender's~~
 25 progress and compliance with any court-imposed terms and conditions.

26 (9) A department of corrections probation and parole officer may participate in a mental health treatment
 27 court team if authorized by the department. The department may authorize participation if it determines, in its
 28 discretion, that the caseloads of local probation and parole officers permit participation. If necessitated by a
 29 change in caseloads, the department may withdraw authorization for participation by its probation and parole
 30 officers in a mental health treatment court. The department of corrections may not authorize its probation and

1 parole officers to supervise a participant of a mental health treatment program who has not been convicted of a
2 felony offense and committed to the supervision of the department.

3
4 NEW SECTION. Section 5. Treatment and support services. (1) As part of a diagnostic assessment,

5 each jurisdiction shall establish a system to ensure that ~~mentally ill offenders~~ ^{participants} are placed into a clinically approved
6 mental health treatment program. To accomplish this, the program conducting the individual assessment shall
7 make specific recommendations to the mental health treatment court team regarding the type of treatment
8 program and duration necessary so that a ~~mentally ill offender's~~ ^{participants} individualized needs are addressed. The
9 assessments and recommendations must be based upon ~~objective medical diagnostic criteria~~ ^{evidence-based treatment principles}. Treatment
10 recommendations accepted by the mental health treatment court pursuant to [sections 1 through 8] must be
11 considered to be reasonable and necessary.

12 (2) An adequate continuum of care for ~~mentally ill offenders~~ ^{participants} must be established in response to [sections
13 1 through 8].

14 (3) The mental health treatment court shall, when practicable, ensure that one agency may not provide
15 both assessment and treatment services for the mental health treatment court to avoid potential conflicts of
16 interest or the appearance that a diagnostic assessment agency might benefit by determining that ~~an offender~~ ^{a participant}
17 is in need of the particular form of treatment that the agency provides.

18 (4) A mental health treatment court making a referral for mental health services or substance abuse
19 treatment shall refer the ~~mentally ill offender~~ ^{participant} to a program that is licensed, certified, or approved by the court.

20 (5) The court shall determine which treatment programs are authorized to provide the recommended
21 treatment to ~~mentally ill offenders~~ ^{participants}. The relationship between the treatment program and the court must be
22 governed by a memorandum of understanding, which must include the timely reporting of the ~~mentally ill~~
23 ~~offender's~~ ^{participant's} progress or lack of progress to the mental health treatment court.

24 ~~(6) The length of stay in treatment must be determined by the mental health treatment court team based~~
25 ~~on individual needs and accepted practices.~~

26
27 NEW SECTION. Section 6. Funding. (1) ~~Federal or state government grants may be available for a~~
28 ~~mental health treatment court.~~ Any federal money received for funding mental health treatment courts must be
29 deposited in the mental health treatment court federal resources account and may be used only for purposes of
30 [sections 1 through 8]. The money in the fund may not be transferred at the end of each year but must remain

There is a mental health treatment court federal
resources account in the federal special revenue fund that
is administered by the office of court administrator.

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1 deposited to the credit of the mental health treatment court federal resources account.

2 (2) A ~~mentally ill offender~~ ^{participant} shall pay the total cost or a reasonable portion of the cost to participate. The
3 cost paid by a ~~mentally ill offender~~ ^{participant} may not exceed \$300 a month. The costs assessed must be compensatory
4 and not punitive in nature and must take into account the ~~mentally ill offender's~~ ^{participant's} ability to pay. Upon a showing
5 of indigency, the mental health treatment court may reduce or waive costs under this subsection. Any fees
6 received by the court from ~~an offender~~ ^{a participant} are not court costs, charges, or fines.

7 (3) All federal funds received from grants for purposes of funding mental health treatment courts must
8 be exhausted before money is spent from other appropriations for that purpose.

9 (4) [Sections 1 through 8] do not prohibit mental health treatment court teams from obtaining
10 supplemental funds.

11
12 **NEW SECTION. Section 7. Statutory construction -- combination with drug treatment court.** (1)

13 The provisions of [sections 1 through 8] must be construed to effectuate its remedial purposes.

14 (2) A mental health treatment court may be combined with a drug treatment court authorized in Title 46,
15 chapter 1, part 11, and a mental health treatment court may serve an individual with co-occurring disorders.

16
17 **NEW SECTION. Section 8. Enforcement by removal to criminal court.** Failure of the ~~mentally ill~~
18 ~~offender~~ ^{participant} to comply with the terms of the mental health treatment program will be referred upon the order of the
19 mental health treatment court judge to the appropriate criminal court.

20
21 **Section 9.** Section 3-10-303, MCA, is amended to read:

22 **"3-10-303. Criminal jurisdiction.** (1) The justices' courts have jurisdiction of public offenses committed
23 within the respective counties in which the courts are established as follows:

24 (a) except as provided in subsection (2), jurisdiction of all misdemeanors punishable by a fine not
25 exceeding \$500 or imprisonment not exceeding 6 months, or both;

26 (b) jurisdiction of all misdemeanor violations of fish and game statutes punishable by a fine of not more
27 than \$1,000 or imprisonment for not more than 6 months; or both;

28 (c) concurrent jurisdiction with district courts of all misdemeanors punishable by a fine exceeding \$500
29 or imprisonment exceeding 6 months, or both;

30 (d) concurrent jurisdiction with district courts of all misdemeanor violations of fish and game statutes

1 punishable by a fine exceeding \$1,000 or imprisonment exceeding 6 months, or both;

2 (e) jurisdiction to act as examining and committing courts and for that purpose to conduct preliminary
3 hearings;

4 (f) jurisdiction of all violations of Title 61, chapter 10; and

5 (g) all misdemeanor violations of Title 81, chapter 8, part 2.

6 (2) In any county that has established a drug treatment court or a mental health treatment court, the
7 district court, with the consent of all judges of the courts of limited jurisdiction in the county, has concurrent
8 jurisdiction of all misdemeanors punishable by a fine not exceeding \$500 or imprisonment not exceeding 6
9 months, or both."

10
11 ~~Section 10. Section 46-16-130, MCA, is amended to read:~~

12 **"46-16-130. Pretrial diversion.** (1)(a) Prior to the filing of a charge, the prosecutor and a defendant who
13 has counsel or who has voluntarily waived counsel may agree to the deferral of a prosecution for a specified
14 period of time based on one or more of the following conditions:

15 (i) that the defendant may not commit any offense;

16 (ii) that the defendant may not engage in specified activities, conduct, and associations bearing a
17 relationship to the conduct upon which the charge against the defendant is based;

18 (iii) that the defendant shall participate in a supervised rehabilitation program, which may include
19 treatment, counseling, training, or education;

20 (iv) that the defendant shall make restitution in a specified manner for harm or loss caused by the offense;

21 or

22 (v) any other reasonable conditions.

23 (b) The agreement must be in writing, must be signed by the parties, and must state that the defendant
24 waives the right to speedy trial for the period of deferral. The agreement may include stipulations concerning the
25 admissibility of evidence, specified testimony, or dispositions if the deferral of the prosecution is terminated and
26 there is a trial on the charge.

27 (c) The prosecution must be deferred for the period specified in the agreement unless there has been
28 a violation of its terms.

29 (d) The agreement must be terminated and the prosecution automatically dismissed with prejudice upon
30 expiration and compliance with the terms of the agreement.

1 ~~(2) A condition of pretrial diversion may be for the court to refer a defendant for evaluation to determine~~
2 the appropriateness of proceedings pursuant to Title 53, chapter 21.

3 (3) After a charge has been filed, a deferral of prosecution may be entered into only with the approval
4 of the court.

5 (4) If the defendant participates in a mental health treatment court, as provided in [sections 1 through
6 8], with the approval of the judge presiding over the original offensive conduct, subsections (1) through (3) do not
7 apply.

8 ~~(4)(5) A prosecution for a violation of 61-8-401, 61-8-406, or 61-8-410 may not be deferred."~~

9
10 NEW SECTION. Section ^{10.}~~11.~~ **Codification instruction.** [Sections 1 through 8] are intended to be
11 codified as an integral part of Title 46, chapter 1, and the provisions of Title 46, chapter 1, apply to [sections 1
12 through 8].

13
14 NEW SECTION. Section ^{11.}~~12.~~ **Effective date.** [This act] is effective July 1, 2007.

15 - END -

(4) "Commitment" means an order by a court requiring an individual to receive treatment for a mental disorder.

(5) "Court" means any district court of the state of Montana.

(6) "Department" means the department of public health and human services provided for in 2-15-2201.

(7) "Emergency situation" means a situation in which any person is in imminent danger of death or bodily harm from the activity of a person who appears to be suffering from a mental disorder and appears to require commitment.

(8) "Friend of respondent" means any person willing and able to assist a person suffering from a mental disorder and requiring commitment or a person alleged to be suffering from a mental disorder and requiring commitment in dealing with legal proceedings, including consultation with legal counsel and others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any, representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for good cause, change its designation of the friend of respondent.

(9) (a) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

(b) The term does not include:

- (i) addiction to drugs or alcohol;
- (ii) drug or alcohol intoxication;
- (iii) mental retardation; or
- (iv) epilepsy.

(c) A mental disorder may co-occur with addiction or chemical dependency.

(10) "Mental health facility" or "facility" means the state hospital, the Montana mental health nursing care center, or a hospital, a behavioral health inpatient facility, a mental health center, a residential treatment facility, or a residential treatment center licensed or certified by the department that provides treatment to children or adults with a mental disorder. A correctional institution or facility or jail is not a mental health facility within the meaning of this part.

(11) "Mental health professional" means:

- (a) a certified professional person;
- (b) a physician licensed under Title 37, chapter 3;
- (c) a professional counselor licensed under Title 37, chapter 23;
- (d) a psychologist licensed under Title 37, chapter 17;
- (e) a social worker licensed under Title 37, chapter 22; or
- (f) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing.

(12) (a) "Neglect" means failure to provide for the biological and psychosocial needs of any person receiving treatment in a mental health facility, failure to report abuse, or failure to exercise supervisory responsibilities to protect patients from abuse and neglect.

(b) The term includes but is not limited to:

- (i) deprivation of food, shelter, appropriate clothing, nursing care, or other services;
- (ii) failure to follow a prescribed plan of care and treatment; or
- (iii) failure to respond to a person in an emergency situation by indifference, carelessness, or intention.

(13) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

(14) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

(15) "Peace officer" means any sheriff, deputy sheriff, marshal, police officer, or other peace officer.

(16) "Professional person" means: